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5 **UNITED STATES OF AMERICA,**
6 Plaintiff,
7 vs.
8 **ENRIQUE CHAVEZ,**
9 Defendant.

CASE No. 4:22-cr-104-YGR

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**ORDER DENYING MOTION TO REDUCE
SENTENCE**

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19 Re: Dkt. No. 52

20 Pending before this Court is defendant Enrique Chavez's motion to reduce his sentence
21 based upon the retroactivity of Amendment 821 to the United States Sentencing Guidelines ("the
22 Guidelines"). The amendment is specific in the relief it affords and limits exist. *See* 18 U.S.C.
23 3582(c)(2) and USSG § 4C1.1. However, in general, the Court may consider requests under two
24 Parts. Part B, found at USSG § 4C1.1, relates to so-called "zero-point offenders."

25 When an amendment to the Guidelines is made retroactive, the Court engages in a two-step
26 inquiry: first, it determines what "amended guideline range would have been applicable to the
27 defendant had the relevant amendment been in effect at the time of the initial sentencing." *Dillon*
28 *v. United States*, 560 U.S. 817, 827 (2010) (internal cites omitted). Next, the Court considers "any
applicable § 3553(a) factors." *Id.*

29 Under Part B, the Court may reduce an offender's Guidelines level by two where all the
30 following criteria apply to the defendant:

- 31 1. the defendant did not receive any criminal history points from Chapter Four, Part
32 A;
- 33 2. the defendant did not receive an adjustment under §3A1.4 (Terrorism);
- 34 3. the defendant did not use violence or credible threats of violence in connection with
35 the offense;
- 36 4. the offense did not result in death or serious bodily injury;
- 37 5. the instant offense of conviction is not a sex offense;
- 38 6. the defendant did not personally cause substantial financial hardship;
- 39 7. the defendant did not possess, receive, purchase, transport, transfer, sell, or
40 otherwise dispose of a firearm or other dangerous weapon (or induce another
41 participant to do so) in connection with the offense;
- 42 8. the instant offense of conviction is not covered by §2H1.1 (Offenses Involving

1 Individual Rights);
2 9. the defendant did not receive an adjustment under §3A1.1 (Hate Crime Motivation
3 or Vulnerable Victim) or §3A1.5 (Serious Human Rights Offense); and
4 10. the defendant did not receive an adjustment under §3B1.1 (Aggravating Role) and
5 was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. § 848.
6 *See USSG § 4C1.1.*

7 As both Mr. Chavez and the government note, the current definition of “sex offender” for
8 purposes of § 4C1.1 is a narrow one. Because that definition only applies to a small subset of
9 crimes against minors, it does not apply to the crimes to which Mr. Chavez pled guilty. Thus, all
10 enumerated criteria do apply to Mr. Chavez and he is eligible for a Guidelines level reduction of
11 two.

12 Turning to the § 3553(a) factors, the Court finds that a sentencing reduction is not
13 warranted. For the same reasons considered at Mr. Chavez’s original sentencing, the Court finds
14 that the need for a sentence which “reflect[s] the seriousness of the offense, provide[s] just
15 punishment for the offense[,...and] afford[s] adequate deterrence to criminal conduct” does not
16 merit a sentence reduction. 18 U.S.C. § 3553(a). As recounted in the government’s sentencing
17 memorandum, the Court considered the totality of the circumstances and outlined the
18 egregiousness of the defendant’s conduct which warranted the sentence imposed. In fact, new
19 proposed amendments reflect the tension with the amendments at issue here.

20 That the defendant’s father is sick is unfortunate. Other adults in custody at FCI Dublin
21 suffered in the same way, yet so many of them had to suffer at the hands of defendant and others
22 in addition to those personal struggles. The defendant’s situation does not warrant a decrease in
23 his sentence. Mr. Chavez’s motion is **DENIED**.

24 This Order terminates Docket No. 52.

25 **IT IS SO ORDERED.**

26 Dated: July 2, 2024

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YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE